

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,

CR 05-382 JRT/FLN

Plaintiff,

v.

REPORT & RECOMMENDATION

Curtis Smith, Jr.,

Defendant.

The above referenced matter came before the undersigned United States Magistrate Judge on January 11, 2006, for a hearing on Defendant's motion to suppress evidence [#18]. At the hearing, the Court heard testimony from Officer Molly Fischer who testified on behalf of the United States. The matter was taken under advisement and a briefing schedule was established. On January 17, 2006, Defendant's counsel, Paul Applebaum, filed a motion to strike Defendant's motion to suppress evidence [#27]. The document itself is titled "Motion to Suppress Statements", but Mr. Applebaum has confirmed that the document should have been titled "Motion to Strike Motion to Suppress Evidence". Therefore, based upon all the files, records, and proceedings herein,

IT IS HEREBY RECOMMENDED that Defendant's motion to strike be GRANTED [#27] and his motion to suppress evidence [#18] be DENIED as moot.

DATED: January 18, 2006.

s/ Franklin L. Noel
FRANKLIN L. NOEL
United States Magistrate Judge

Pursuant to the Local Rules, any party may object to this Report and Recommendation by filing with the Clerk of Court and serving on all parties, on or before **February 3, 2006**, written objections which specifically identify the portions of the proposed findings or recommendations to which objection is being made, and a brief in support thereof. A party may respond to the

objecting party's brief within ten days after service thereof. All briefs filed under the rules shall be limited to 3500 words. A judge shall make a de novo determination of those portions to which objection is made.

Unless the parties are prepared to stipulate that the District Court is not required by 28 U.S.C. § 636 to review a transcript of the hearing in order to resolve all objections made to this Report and Recommendation, the party making the objections shall timely order and cause to be filed by **February 3, 2006**, a complete transcript of the hearing.

This Report and Recommendation does not constitute an order or judgment of the District Court, and it is, therefore, not appealable to the Circuit Court of Appeals.